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OCT 28 2005

# FOX INTELLECTUAL PROPERTY LAW

To:	U.S. Patent & Trademark Office	From:	Ronald E. Smith
Attn:	James A. Menefee - Art Unit 2828	Client:	1372.09,PRWOUS
Fax:	(571) 273-8300	Pages:	4 including coversheet
Phone:	(571) 272-1944	Date:	October 28, 2005
Re:	USSN 10/604,193	CC:	University of SouthFlorida (Assignee)

Urgent     For Review     Please Comment     Please Reply     Please Recycle

Dear Examiner Menefee:

In response to the non-final office action mailed September 29, 2005, we enclose the following:

- 1) Amendment Transmittal with Certificate of Facsimile Transmission under 37 CFR 1.8(a) dated October 28, 2005 (1 page); and
- 2) Response to Election/Restriction Requirement with Certificate of Facsimile Transmission under 37 CFR 1.8(a) dated October 28, 2005 (2 pages).

Very respectfully,

Ronald E. Smith  
 Reg. No. 28,761

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/604,193 Confirmation No.: 1192  
 Applicant: Dennis K. Killinger  
 Filed: 06/30/2003  
 Art Unit: 2828  
 Examiner: James A. Menefee  
 Docket No. : 1372.09.PRWOUS  
 Customer No. : 21,901  
 For : Open-Path Laser/Optical Communication Systems  
       and Methods Utilizing Wavelengths Between  
       Atmospheric and Gaseous Absorption Lines

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**OCT 28 2005**

Transmitted to Central Fax at (571) 273-8300  
 Commissioner for Patents  
 P. O. Box 1450  
 Alexandria, VA 22313-1450

**AMENDMENT TRANSMITTAL**

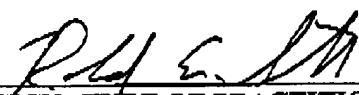
1. Transmitted herewith is a Response to Election/Restriction Requirement for this application.

**STATUS**

2. Applicant is an independent inventor.

**EXTENSION OF TERM**

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.  
 Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

  
**SIGNATURE OF PRACTITIONER**  
 Ronald E. Smith  
 Smith & Hopen, P.A.  
 15950 Bay Vista Drive, Ste. 220  
 Clearwater, FL 33760  
 (727) 507-8558

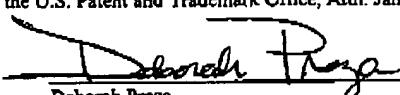
Reg. No.: 28,761  
 Customer No.: 21,901

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**CERTIFICATE OF FACSIMILE TRANSMISSION**  
 (37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office, Attn: James A. Menefee, (571) 273-8300 on October 28, 2005.

Dated: October 28, 2005



Deborah Preza

(Amendment Transmittal—page 1)

OCT 28 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant:	: Dennis K. Killinger	
Filed:	: 06/30/2003	
Art Unit	: 2828	
Examiner	: James A. Menefee	
Docket No.	: 1372.09.PRWOUS	
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Transmitted to Central Fax at (571) 273-8300

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

In response to the nonfinal Examiner's Action mailed September 29, 2005, having a shortened statutory period for response set to expire October 29, 2005, the above-identified patent application is amended a first time as follows:

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

Applicant elects to prosecute the claims drawn to a method of tuning a laser, classified in class 372, subclass 20. The claims readable thereon are claims 1-5.

REMARKS

If an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 507-8558 is requested.

Very respectfully,

SMITH & HOPEN

By:

Ronald E. Smith  
Suite 220  
15950 Bay Vista Drive  
Clearwater, FL 33760  
(727) 507-8558  
Attorneys for Applicant

Dated: October 27, 2005.

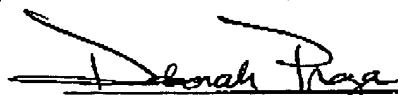
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**CERTIFICATE OF FACSIMILE TRANSMISSION**

(37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this response is being transmitted by facsimile to the U.S. Patent and Trademark Office, Attn: James A. Menefee, (571) 273-8300 on October 28, 2005.

Dated: **October 28, 2005**

  
Deborah Preza